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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/841,954	04/25/2001	Jean-Michel Roquais	RCA 90.250	6199

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EXAMINER

DAY, MICHAEL HENRY

ART UNIT

PAPER NUMBER

2879

DATE MAILED: 02/21/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.
09/841,954

Applicant(s)
J. Roquais, et al.

Examiner
Michael Day

Art Unit
2879



-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE three MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on _____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-5 is/are pending in the application.
- 4a) Of the above, claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-5 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claims _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are objected to by the Examiner.
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

- 13) ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).
- a) ☐ All b) ☐ Some* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

*See the attached detailed Office action for a list of the certified copies not received.

- 14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

Attachment(s)

- 15) ☒ Notice of References Cited (PTO-892) 18) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 16) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 19) ☐ Notice of Informal Patent Application (PTO-152)
- 17) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s). 4 20) ☐ Other: _____

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DETAILED ACTION

Claim Objections

1. Claims 1-3 are objected to because it would appear that they have undue scope.

Specifically, the subject claims appear to read on the electrolysis cathodes as disclosed in U.S. patent No. 4,536,259 by Oda et al. While the present disclosure would enable one skilled in the art to make a cathode-sleeve substrate including the disclosed alloy, there is no suggestion in the present disclosure that the subject alloy would be suitable for an electrolysis cathode.

Consequently, the issue of enablement springs to mind. Appropriate correction is required.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1, and 2 are rejected under 35 U.S.C. 102(b) as being anticipated by Kunz.

Referring to claim 1, Kunz discloses an alloy including 94.9 weight percent nickel and up to about 0.05 weight percent magnesium. See col. 2, lines 36-38.

Referring to claim 2, the claimed weight percentage of aluminum includes zero.

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Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

5. Claims 2, and 3 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kunz in view of Misumi. (4,215,180)

Referring to claims 2, and 3, Kunz discloses an alloy of claim 1 including up to about 0.05 weight percent magnesium. See col. 2, lines 36-38. Kunz does not disclose an alloy including aluminum. Misumi discloses an alloy of claim 1 including up to about 0.05 weight percent magnesium and/or aluminum. See col. 6, lines 28-33. That is to say, Misumi discloses aluminum is an art recognized equivalent for magnesium. It would have been obvious to replace a portion of the magnesium in the alloy, as disclosed by Kunz, with aluminum, as disclosed by Misumi, because the two metal are art recognized equivalents for the purpose of a reducing agent.

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Still referring to claim 3, the limitation, “after the cathode has been activated, the percentage of the surface of the alloy below the emissive layer of the cathode covered by stable crystallites is less than or equal to 3%” does not have any patentable weight. It is noted that the claim is directed to a metal alloy, and not to a cathode. The subject limitation is directed to an intended use for the alloy that does not result in any structural difference in the alloy.

Consequently, the subject limitation does not have any patentable weight. See *In re Schreiber*, 44 USPQ2d 1429 (1997) and MPEP 2111.02 and 2112.

6. Claims 4, and 5 are rejected under 35 U.S.C. 103(a) as being unpatentable over Watanabe et al. in view of Kunz. Referring to claims 4, and 5, Watanabe et al. disclose a CRT (see col. 1) including a cathode (see FIG. 1) including an emissive layer 2 of alkaline earth metal oxides on a sleeve 1. Watanabe et al. are silent as to the composition of the sleeve. Kunz discloses that a typical cathode substrate alloy of claim 1 that includes 94.9 weight percent nickel and up to about 0.05 weight percent magnesium. See col. 2, lines 36-38. It would have been obvious to include the alloy, as disclosed by Kunz, in the cathode or CRT, as disclosed by Watanabe et al., because the subject alloy is typically used for making cathode substrates.

Conclusion

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

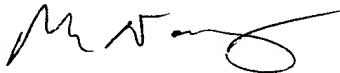
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8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael Day whose telephone number is 703/305-4941. The examiner can normally be reached on Monday-Friday, from 8:00 A.M. to 5:00 P.M.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nimeshkumar Patel, can be reached by phoning 703/305-4794. The Fax phone number is 703/308-7382.

Any inquiry of a general nature or relating to the status of this application should be directed to the Group receptionist whose telephone number is 703/308-0956.

January 5, 2000



**MICHAEL DAY
PRIMARY EXAMINER
GROUP 2870**